

**SUBDIVISION COMMITTEE
METROPOLITAN AREA PLANNING COMMISSION**

**AGENDA ITEM NO. 4
JANUARY 26, 2006**

**STAFF REPORT
(One-Step Final Plat**

CASE NUMBER: SUB 2005-154 -- REPLAT OF RICH'S ADDITION

OWNER/APPLICANT: City of Wichita, Property Management, Attn: John Philbrick, 455 N. Main, Wichita, KS 67202; Barry Davis, 1600 N. Jeanette, Wichita, KS 67202; Delora Donovan, 1559 N. Ferrell, Wichita, KS 67202

SURVEYOR/ENGINEER: MKEC Engineering Consultants, 411 N. Webb Road, Wichita, KS 67206

LOCATION: East of Hood, North of 13th St. North

SITE SIZE: .42 acres

NUMBER OF LOTS

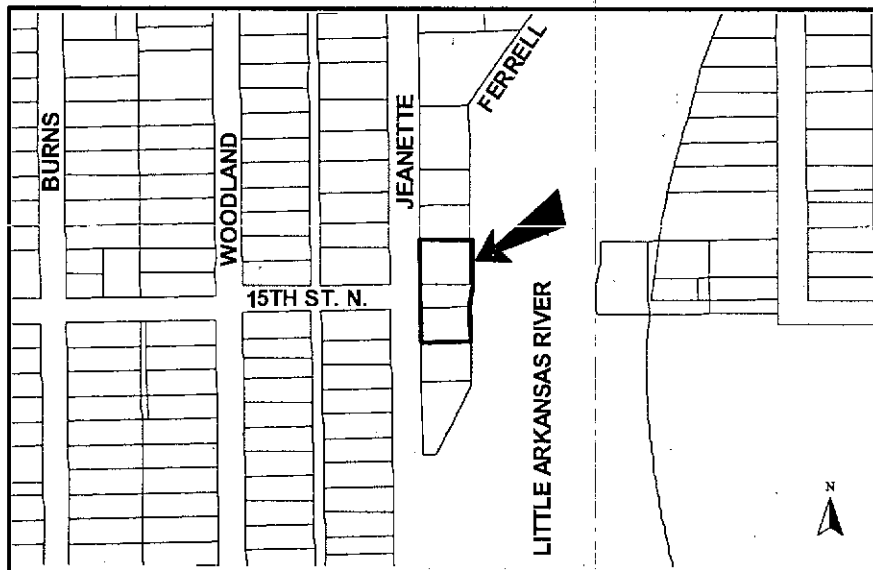
Residential:	2
Office:	
Commercial:	
Industrial:	
Total:	<u>2</u>

MINIMUM LOT AREA: 8,015 sq. ft.

CURRENT ZONING: TF-3, Two-Family Residential

PROPOSED ZONING: Same

VICINITY MAP



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NOTE: This replat of a portion of the Rich Addition includes the vacation of 15th Street, and a portion of Ferrell St. The site has been approved for Conditional Use (CON 2005-30) for a Major Utility to construct a sanitary sewer lift station.

STAFF COMMENTS:

- A. Municipal services are available to serve the site.
- B. City Engineering needs to comment on the status of the applicant's drainage plan.
- C. The title of the plat needs to be revised to read "Replat of Rich's Addition" and referenced in the plat's text accordingly.
- D. The applicant shall provide a guarantee for closure of the street return along Ferrell and Jeanette.
- E. GIS requests that the street names should be labelled as Jeanette Ave and Ferrell Dr.
- F. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- G. For those reserves being platted for drainage purposes, the required covenant which provides for ownership and maintenance of the reserves shall grant, to the appropriate governing body, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- H. The dedication of access controls may be deleted from the face of the plat and reference deleted from the plat's text.
- I. The legend is incomplete.
- J. The Conditional Use approval required a variance for a proposed 15-ft setback along Ferrell. In lieu of the variance, the applicant may establish a 15-ft setback with the plat. The Subdivision Regulations permit the setback provisions to be modified by the plat upon the approval of the Planning Commission.
- K. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- L. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- M. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)

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- N. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- O. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- P. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- Q. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- R. Perimeter closure computations shall be submitted with the final plat tracing.
- S. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- T. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- U. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

Huang, Vicky

From: Armour, James
Sent: Friday, February 03, 2006 1:53 PM
To: Huang, Vicky
Cc: Janzen, Gary ; Gunzelman, Paul
Subject: FW: Replat of Rich's Addition

Sensitivity: Private

Vicky, may need to keep this on file somewhere. thanks

-----Original Message-----

From: Botinelly, Joseph
Sent: Friday, February 03, 2006 11:55 AM
To: Schroeder, Kurt
Cc: Armour, James
Subject: RE: Replat of Rich's Addition
Sensitivity: Private

Thanks, Kurt. If the replat is approved, Mr. Davis's house will be 2 feet from the property line on Ferrell. Currently it encroaches 3 feet into the ROW. He has stated on many occasions that even if his house burns down he wants to be allowed to rebuild it on the same foundation.

At the MAPC hearing February 2, Mr. Davis said he will sign the plat if the City would agree to consider a request to vacate Ferrell Drive if he and his neighbors bring one forward in the future. He understands there is no guarantee that the City would grant such a request. The MAPC approved the replat application.

-----Original Message-----

From: Schroeder, Kurt
Sent: Friday, February 03, 2006 11:44 AM
To: Botinelly, Joseph
Cc: Armour, James
Subject: FW: Replat of Rich's Addition
Sensitivity: Private

Also, Joe, the setbacks are measured from the private property parcel lot lines, not to a street curb.

-----Original Message-----

From: Schroeder, Kurt
Sent: Friday, February 03, 2006 11:42 AM
To: Botinelly, Joseph
Subject: RE: Replat of Rich's Addition
Sensitivity: Private

As long as the house is not destroyed over 50% or torn down and rebuilt, it is considered to be "legally nonconforming" under the Unified Zoning Code Regulations, and it does not have to be moved. Any new additions/expansions to the current home would need to comply with the minimum setbacks. For new construction, since there was a purchase of ROW from the property, the UZC allows the minimum setbacks to be reduced automatically by 25%. So the front yard minimum building setback for new construction along Ferrell would be 18.75' (25' minimum x 75%), the side along the side street (W. 15th) would be 6' in this case, and the minimum setback along Jeanette would be 25'.

-----Original Message-----

From: Botinelly, Joseph
Sent: Wednesday, February 01, 2006 9:31 AM
To: Schroeder, Kurt
Subject: FW: Replat of Rich's Addition
Sensitivity: Private

The house at 1600 Jeanette encroaches three feet into the street right of way of Ferrell Drive. Chris Carrier agreed to give property owner Barry Davis five feet of the Ferrell Drive right of way to eliminate the encroachment. MKEC prepared a replat application to incorporate this and other property changes as part of a sewer project. At

the plats committee hearing, Mr. Davis presented several property boundary issues, which the committee directed Water and Sewer to clear up.

When I gave M. S. Mitchell the information below in response to the committee's instructions, he asked if there is anything in code or regulations that will guarantee that no one in the future will require Mr. Davis or his successors to move his house. If you can help with that information, I will appreciate it.

-----Original Message-----

From: Botinelly, Joseph
Sent: Tuesday, January 31, 2006 5:26 PM
To: Strahl, Neil
Cc: Longnecker, William; Lang, Joe; Lynn Moore (E-mail); Kirkland, Don; Armour, James
Subject: Replat of Rich's Addition
Sensitivity: Private

As you know, at the January 26 meeting, the plats committee approved the replat of Rich's Addition subject to the City clearing up the property boundary issues which Barry Davis raised. The MAPC will consider this replat February 2.

Subsequent to the meeting, M.S. Mitchell advised me to determine if the City provided adequate setback for the structure on Mr. Davis's property when it obtained right of way for Ferrell Drive. The microfilm record of which you gave me a copy appears to be a copy of the original plat, dated, signed by the owners of the property and notarized March 24, 1886, which is the same year that Mr. Davis claims his house was originally constructed. This plat shows a right of way for River Boulevard in the same location as present-day Ferrell Drive. The County Clerk's office gave me a copy of a Library Copy of the plat, which the Register of Deeds certified on July 23, 1910 as an exact copy of the original plat. This document also shows a right of way for River Boulevard in the same location as present-day Ferrell Drive. The current plat shows no changes to the original plat except for the vacation of Beatrice Street and three alleys.

I told Mr. Davis that these documents convince me that the City acquired the right of way for Ferrell Drive before the house encroached on the right of way and therefore he has no claim on the land between his house and the pavement. Mr. Davis indicated he understands that, but he stated that, since the City is now aware that his house does not have adequate setback, the City should correct the setback by realigning the Ferrell Drive pavement to the east five to ten feet as part of the sewer project. I told Mr. Davis that realigning the street would require removal and replacement of at least one hundred feet of pavement and that the cost of that work goes beyond what is reasonable, in my opinion, but that I would relay his wishes to the MAPC.

Mr. Davis also took exception to my comment at the plats committee meeting that forty feet was the minimum width of land that I believe is needed for the reserve area. Mr. Davis claims that the City does not need a forty-foot width to maintain a lift station, and I agree with his claim. I explained to Mr. Davis that 15th Street is being platted as a reserve, the use of which is not limited to a pump station and storm drain line. The City may in the future desire to use this reserve for some additional purpose and if the width is less than 40 feet the options for its use will be limited. Granting him and Ms. Donovan each ten additional feet along their 15th Street property lines relieved the setback inadequacies for their structures, but giving away additional land does not solve any specific problems.

I will appreciate it if you will convey this information to the MAPC. I will be glad to attend the meeting to answer questions if necessary.